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DATE MAILED: 05/31/2006

APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/813,689	03/31/2004		Victor Kaiser	402973	2333
23548	7590	05/31/2006		EXAMINER	
		IAYER, LTD	EARLY, MICHAEL JACOBY		
700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960				ART UNIT	PAPER NUMBER
				3744	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
0.55	10/813,689	KAISER ET AL.				
Office Action Summary	Examiner	Art Unit				
	Michael J. Early	3744				
The MAILING DATE of this communical Period for Reply	tion appears on the cover shee	et with the correspondence addre	ess			
A SHORTENED STATUTORY PERIOD FOR WHICHEVER IS LONGER, FROM THE MAII  - Extensions of time may be available under the provisions of 3 after SIX (6) MONTHS from the mailing date of this communi  - If NO period for reply is specified above, the maximum statute  - Failure to reply within the set or extended period for reply will Any reply received by the Office later than three months after earned patent term adjustment. See 37 CFR 1.704(b).	LING DATE OF THIS COMMU 37 CFR 1.136(a). In no event, however, m cation. ory period will apply and will expire SIX (6) , by statute, cause the application to becor	UNICATION.  Nay a reply be timely filed  MONTHS from the mailing date of this common the Mailing date of this common the ABANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed of	on <u>20 April 2006</u> .					
	☐ This action is non-final.					
• •	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice	under Ex parte Quayle, 1935	C.D. 11, 453 O.G. 213.				
Disposition of Claims						
4) ⊠ Claim(s) 1-12 is/are pending in the app 4a) Of the above claim(s) is/are 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) 1-12 is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction	withdrawn from consideration					
Application Papers						
9) The specification is objected to by the E 10) The drawing(s) filed on is/are: a Applicant may not request that any objection Replacement drawing sheet(s) including the short of t	n) accepted or b) objected on to the drawing(s) be held in ab e correction is required if the draw	peyance. See 37 CFR 1.85(a). wing(s) is objected to. See 37 CFR				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for a) All b) Some * c) None of:  1. Certified copies of the priority do  2. Certified copies of the priority do  3. Copies of the certified copies of application from the International	ocuments have been received ocuments have been received the priority documents have but Bureau (PCT Rule 17.2(a)).	. in Application No been received in this National St	age			
Attachment(s)						
Notice of References Cited (PTO-892)     Notice of Draftsperson's Patent Drawing Review (PTO 3)    Information Disclosure Statement(s) (PTO-1449 or PT Paper No(s)/Mail Date	7-948) Pape FO/SB/08) 5) Notice	view Summary (PTO-413) or No(s)/Mail Date de of Informal Patent Application (PTO-1 r:	52)			

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## **DETAILED ACTION**

## Reissue Applications

The reissue oath/declaration filed with this application is defective because of the following:

- it fails to state that the person(s) signing the oath/declaration have reviewed and understand the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration as required by 37 CFR 1.63(b)(1);
- The reissue oath/declaration filed with this application is defective because it fails
  to contain a statement that all errors which are being corrected in the reissue
  application up to the time of filing of the oath/declaration arose without any
  deceptive intention on the part of the applicant see 37 CFR 1.175 and MPEP §
  1414;
- it fails to comply with the requirements of 37 CFR 1 .63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Applicant is **again advised** to reference to form PTO/SB/51 for the proper format and language of a reissue declaration.

Claims 1-12 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

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The nature of the defect(s) in the declaration is set forth in the discussion above in this Office Action.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b).

## Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Early whose telephone number is (571) 272-3681. The examiner can normally be reached on Monday - Friday, 7am - 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJE 5/16/06 Michael J. Early
Patent Examiner
Art Unit 3744

CHERYL TYLER
Art Unit 3744

mi/1.5